

REMARKS/ARGUMENTS

Reconsideration and allowance of the present application based on the following remarks are respectfully requested. Claims 1-2 and 15 have been amended. Claims 5 and 7-8 have been cancelled. Support for these amendments may be found throughout the specification. No new matter has been added as a consequence of these amendments.

Claim 8 stands rejected under 35 U.S.C. §112, second paragraph, as being indefinite. In view of the above-noted amendments, Applicant submits that the rejection is rendered moot, and that the remaining pending claims are in full compliance with 35 U.S.C. §112, first and second paragraph.

Claims 1-4 and 9-14 stand rejected under 35 U.S.C. §102(b) as being anticipated by UNIQEMA® Formulation data for W/O/W sunscreen, 2002 ("Uniqema"). Claims 1-15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Publication No. 2002/0065328 ("Dederen"). For at least the following reasons, the claims are believed to be patentable over the cited references.

In view of the above-noted amendments, Applicant submits that the pending claims are not anticipated by Uniqema. Specifically, the surfactant compositions of the amended pending claims comprise, *inter alia*, at least one branched polyoxyalkylene non-ionic surfactant and at least one surfactant capable of forming liquid crystals in water. Accordingly, Applicant submits that as the sunscreen formulations discussed in Uniqema do not teach or suggest a branched polyoxyalkylene non-ionic surfactant, the pending claims are patentable over Uniqema.

The Official Action acknowledges on page 6, that Dederen "does not [provide] a composition comprising at least one branched non-ionic surfactant and at least one surfactant capable of forming liquid crystals in water" (*emphasis added*). Yet, the rejection asserts that such a combination would be obvious because Dederen "suggests using a combination of these surfactants as *emulsifiers* in the encompassed compositions" (*emphasis added*). Contrary to these assertions, Applicant submits that Dederen does not teach or suggest the compositions of the pending claims.

Dederen is directed towards using a polysaccharide combination of xanthan gum and polyglucomannan as an emulsion stabilizer. In contrast, the surfactant compositions of the amended pending claims, comprise, *inter alia*, at least one branched polyoxyalkylene non-ionic surfactant and at least one surfactant capable of forming liquid crystals in water; wherein the ratio of the at least one branched polyoxyalkylene non-ionic surfactant to the at least one surfactant capable of forming liquid crystals in water is in the range from 0.05 to 20:1.

Despite the rejection's above-noted acknowledgement of Dederen's failing, the rejection relies on Dederen for *mentioning* that a combination of hydrophilic and hydrophobic emulsifiers may be combined (see present Official Action on page 6, citing Dederen at page 4, paragraph [0032]). However, Applicant submits that unlike the amended pending claims, Dederen neither teaches nor suggests combining the claimed particular components in the specified ratios – *i.e.*, combining, *inter alia*, at least one branched polyoxyalkylene non-ionic surfactant and at least one surfactant capable of forming liquid crystals in water, wherein the ratio of the at least one branched polyoxyalkylene non-ionic surfactant to the at least one surfactant capable of forming liquid crystals in water is in the range from 0.05 to 20:1.

In fact, the pending rejection fails to provide the necessary motivation for one skilled in the art to *select* and then *combine* the particular surfactants in Dederen in the manner suggested in the rejection – much less in the ratios specified in the pending claims. Thus, Applicant submits the pending rejection is merely an exercise of picking and choosing components, using the pending application as a guide, and is nothing more than an impermissible hindsight reconstruction. Therefore, Applicant submits the pending rejection fails to present a *prima facie* case of obviousness, and that the pending claims are patentable over the cited art.

Therefore, all objections and rejections having been addressed, it is respectfully submitted that the present application is in a condition for allowance and a Notice to that effect is earnestly solicited.

Should any issues remain unresolved, the Examiner is encouraged to contact the undersigned attorney for Applicants at the telephone number indicated below in order to expeditiously resolve any remaining issues.

Respectfully submitted,

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